

United States Court of Appeals
Fifth Circuit

UNITED STATES COURT OF APPEALS

FILED

February 12, 2010

FOR THE FIFTH CIRCUIT

Charles R. Fulbruge III
Clerk

No. 08-50852
Conference Calendar

D.C. Docket No. 6:07-CR-107-1

FILED

MAR 10 2010

CLERK, U.S. DISTRICT COURT
WESTERN DISTRICT OF TEXAS
BY [Signature]
DEPUTY CLERK

UNITED STATES OF AMERICA,

Plaintiff - Appellee

v.

KENNETH ERIC WATSON,

Defendant - Appellant

Appeal from the United States District Court for the
Western District of Texas, Waco

Before GARZA, DENNIS, and ELROD, Circuit Judges.

J U D G M E N T

This cause was considered on the record on appeal and the briefs on
file.

It is ordered and adjudged that the appeal is dismissed as frivolous.

ISSUED AS MANDATE: 08 MAR 2010

A True Copy
Attest

Clerk, U.S. Court of Appeals, Fifth Circuit

By: [Signature]
Deputy 08 MAR 2010

New Orleans, Louisiana

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FOR THE FIFTH CIRCUIT**

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Appeal from the United States District Court
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USDC No. 6:07-CR-107-1

Before GARZA, DENNIS, and ELROD, Circuit Judges.

PER CURIAM:*

The attorney appointed to represent Kenneth Eric Watson has moved for leave to withdraw and has filed a brief in accordance with *Anders v. California*, 386 U.S. 738 (1967). Watson has filed a response. The record is insufficiently developed to allow consideration at this time of Watson's claim of ineffective assistance of counsel; such a claim generally "cannot be resolved on direct appeal when [it] has not been raised before the district court since no opportunity existed to develop the record on the merits of the allegations." *United States v.*

* Pursuant to 5TH CIR. R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR. R. 47.5.4.

Cantwell, 470 F.3d 1087, 1091 (5th Cir. 2006) (internal quotation marks and citation omitted). Our independent review of the record, counsel's brief, and Watson's response discloses no nonfrivolous issue for appeal. Accordingly, the motion for leave to withdraw is GRANTED, counsel is excused from further responsibilities herein, Watson's requests for the appointment of new counsel and for leave to file an untimely pro se brief are DENIED, and the APPEAL IS DISMISSED. See 5TH CIR. R. 42.2.